

U S. Department
of Transportation

United States
Coast Guard



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JUL 1 1997

From: Commandant
To: Distribution

Subj: GUIDANCE FOR RESPONSE TO DISCHARGES FROM SOURCES THAT HAVE
A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
PERMIT

Ref: (a) Ltr 16451 dtd 17 Jan 97 re: Guidance for Response to
Synthetic Drilling Fluid Discharges

1. Reference (a) clarified response to synthetic drilling fluid spills from offshore facilities that have an NPDES permit. Subsequently, the Coast Guard and Environmental Protection Agency (EPA) met to further discuss the issue of determining whether a discharge from an offshore facility is a permitted discharge, a permit violation, or a non-permitted discharge. The issue can be very complex. This guidance, therefore, applies to any source that has an NPDES permit.

2. When a facility discharges oil in an amount which may be considered harmful as per 40 CFR 110 (i.e. a film, sheen, discoloration, sludge, or emulsion is produced), it must be reported unless the owner/operator has an EPA or state issued NPDES permit and knows for a fact, based on sampling or equipment readings at the time of the incident, that the discharge is within their permit guidelines. If it is not known whether the discharge was a permit violation, or a non-permitted discharge (and therefore a Clean Water Act 311 violation), then the discharge should be reported to the EPA (or state as appropriate) as a possible permit violation, and to the National Response Center (NRC) as a possible Clean Water Act (CWA) violation. When the Coast Guard receives a report, from any source, (facility operator, overflight, etc.), it will then investigate to determine whether a CWA violation should be processed. This will include determining whether all of the elements of a violation exist. If it appears that the discharge is from an operation that has an NPDES permit, the Coast Guard will forward the case to the USEPA. A list of EPA contacts and phone/fax numbers is enclosed. The EPA will further determine whether a permit violation has occurred or if the discharge is a non-permitted discharge. In either situation, the EPA will process the case.


3. A permitted discharge is one which is allowed under an EPA or state issued permit. These discharges are typically related to an effluent treatment process and, in most cases, do not produce

16451

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a sheen. A permit violation is a discharge that is produced during an operation allowed by an NPDES permit, but which exceeds the amount of oil prescribed in the permit. There are some incidents which will clearly not be NPDES permitted. Examples include a well blowout, a bucket of oil falling off of a platform into the water, equipment failure, or a spill that occurs during a transfer of oil to or from a facility. Cases such as these are CWA violations under Coast Guard jurisdiction and a case would be processed accordingly. A thorough initial investigation is required to make this determination.

4. This response policy should serve to eliminate duplication of enforcement efforts by the Coast Guard and EPA and will be incorporated in the next update to the Marine Safety Manual. It does not modify, in any way, the Federal On Scene Coordinator's responsibilities as outlined in the National Contingency Plan with respect to responding to, and ensuring, the proper cleanup of oil spills; nor does this policy relieve the owner/operator of their responsibility for reporting discharges in accordance with the law and regulations. The point of contact is Lieutenant Vickie Huyck at (202) 267-2865.


for L. L. HERETH
By direction

Encl: EPA list of contacts

Dist: USEPA (Mr. David Drelich, Ms. Janet Wiener, Mr. Joe Daly)
All Districts (m), MSOs, Activities, NRC, G-MOA, G-MOC,
G-LMI, Hearing Officers